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STATE OF CALIFORNIA

GRAY DAVIS, Governor

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



EX PARTE OR LATE FILED

April 20, 2000

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Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

**Re: Ex Parte Comments: In the Matter of Application for Consent to the
Transfer of Control of Licenses and Section 214 Authorizations from
Ameritech Corporation, Transferor, to SBC Communications, Inc.,
Transferee, CC Docket No. 98-147/**

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(1) of the Commission's Rules, the California Public Utilities Commission (CPUC) and the People of the State of California submit for filing a notification of an ex parte letter sent on April 20, 2000. The contact involved a discussion of the comments filed in the above referenced case.

Thank you for your assistance in making these materials part of the record.

Sincerely,

A handwritten signature in cursive script that reads 'Gretchen Therese Dumas'.

Gretchen Therese Dumas
Senior Staff Counsel

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PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



April 20, 2000

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20024

Re: Ex Parte Comments: In the Matter of Application for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Ameritech Corporation, Transferor, to SBC Communications, Inc., Transferee, CC Docket No. 98-147

Dear Ms. Salas:

In accordance with Section 1.1206(b)(1) of the FCC's Rules, the California Public Utilities Commission (California) hereby submits for filing two copies of this presentation for inclusion in the public record in the above-referenced docket.

The FCC released a Public Notice seeking comment on SBC's request for FCC approval regarding the ownership of two pieces of equipment, Combination Plugs/Cards and Optical Concentration Devices ("OCD") to be deployed as part of SBC's new fiber infrastructure. This new fiber infrastructure is intended to address its obligations pursuant to the FCC's advanced services Merger Conditions.¹

In its filings before the FCC, SBC notes that it had initially proposed that all competitive local exchange carriers ("CLECs"), including SBC's Advanced Services affiliate, own their Combination Plugs/Cards and that SBC's incumbent local exchange carriers ("ILECs") would manage and install those pieces of equipment in the remote terminals. However, SBC subsequently concluded that managing this pool of plugs would result in serious administrative, tax and inventory issues that make this approach unworkable. As a result, SBC is proposing that its ILECs own the Combination Plugs/Cards and provide CLECs, including SBC's Advanced Services Affiliate, with non-discriminatory access to that equipment. SBC attaches an Appendix DLE-DSL containing draft contract language to that effect.²

¹ Public Notice, Common Carrier Bureau Seeks Comment on SBC's Request for Interpretation, Waiver of Modification of the SBC/Ameritech Merger Conditions, DA 00-35, CC Docket No. 98-141, ASD File No. 99-49 (Rel. February 18, 2000).

² Letter from Paul K. Mancini, Vice President and Assistant General Counsel, SBC Communications, Inc., to Lawrence E. Strickling, Chief, Common Carrier Bureau, FCC (February 15, 2000) at 2-4 and DLE-ADSL Appendix attached thereto.

SBC also explains that its new fiber infrastructure necessitates the deployment of OCDs, which are technically ATM switches. Because OCDs are generally deemed to be Advanced Services Equipment under the FCC's Merger Conditions, SBC initially concluded that they should be owned by its Advanced Services Affiliates. However, a number of CLECs objected to a competitor, SBC's Advanced Services Affiliate, owning the OCDs. For this reason, SBC is proposing that its ILECs own the OCDs.³

While California takes no position, it does have concerns about the ramifications of SBC's request in relationship to the ability of CLECs to deploy advanced services and to compete in the local exchange markets in SBC's territory.⁴

1. SBC's Request Raises Concerns Regarding CLECs' Ability to Deploy Advanced Services

California is concerned that SBC's proposal may impede competition in the advance services market by limiting the types of services and technology that competitors can provide to customers. As indicated in SBC's filings, SBC proposes to upgrade or newly install over 20,000 remote terminals with Litespan 2000, 2012 or UMC 1000 Digital Loop Carrier ("DLC") equipment installed throughout its 13 state region during the life of its proposed plan.⁵ However, SBC does not address the impact of this proposal to increasingly deploy DLC equipment on advanced services providers that rely on SBC's unbundled copper loops to offer service.⁶

Also, California is concerned that SBC's proposed technology may prevent competitors from offering forms of DSL service other than ADSL⁷ and valued added services such as Centrex services and video on demand, among other services.⁸ Moreover, California is concerned that competitors may be precluded from deploying innovative technologies to the extent they are not compatible with the technology selected by SBC.⁹

2. SBC's Request Raises Concerns Regarding CLECs' Ability to Compete in the Local Exchange Market

California is concerned that SBC's proposal to expand deployment of DLCs may impede competition in the local exchange market because deployment of DLCs typically prevents CLECs from accessing customers served by that DLC for purpose of offering local exchange service using their own switches. Instead, the CLEC must rely on the ILEC's switch to serve those customers if alternative unbundled copper loops are not available. While manufacturers

³ Letter from Paul K. Mancini to Lawrence E. Strickling at 5.

⁴ The California Public Utilities Commission voted on April 20, 2000 to support the position espoused in this letter by a 3 – 2 vote.

⁵ Appendix DLE-DSL, Section 22.

⁶ Comments of Prism Communications at 8.

⁷ Reply Comments of DSL Access Telecommunications Alliance at 7.

⁸ Comments of Prism Communications Comments at 6-7.

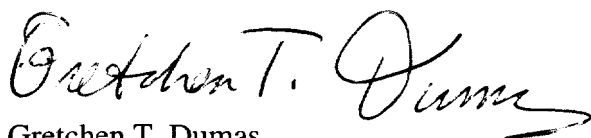
⁹ Comments of MGC at 1-2; Comments of MCI at 4-5; Comments of Prism Communications at 6-7.

are responding to the possible demand for multi-hosted DLC, such technology is not yet widely deployed.¹⁰

Forcing CLECs to depend on SBC's switches may impede competition by decreasing incentives for competitors to install switches and by limiting the array of services and technologies such carriers can make available to their customers. Further, if a CLEC were to install its own switch, SBC's use of DLC technology would hamper a switch-based CLEC's ability to serve the mass market. This is because a switch-based CLEC could access customers served using DLCs only if unbundled loops are available outside the DLC. However, limitations on the number of copper loops may preclude the switch-based CLEC from being able to serve a significant number of customers. From the customer's perspective, such customers would be deprived of the ability to obtain competitive services from the switch-based CLECs.

In closing, California takes no position on these two issues. However, because these issues are so important, California is compelled to bring these issues to the Commission's attention.

Very truly yours,

A handwritten signature in cursive script, reading "Gretchen T. Dumas". The signature is written in black ink and is positioned above the printed name and title.

Gretchen T. Dumas
Public Utilities Counsel IV

GTD:abh

¹⁰ Second Further Notice of Proposed Rulemaking issued by the FCC in CC Docket Nos. 96-98 and 95-185, Initial Comments of MCI at 56.